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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/306,552 05/06/99 TAGGART

T STEU-2418

JOHN A MERECKI
SCHMEISER OLSEN & WATTS
3 LEAR JET LANE SUITE 201
LATHAM NY 12110

QM32/0626

EXAMINER

JENSEN, S

ART UNIT

PAPER NUMBER

3721

DATE MAILED:

06/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/306,552

Applicant(s)

Taggart

Examiner

Steven Jensen

Group Art Unit

3721



☒ Responsive to communication(s) filed on May 6, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-34 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☐ Claim(s) _____ is/are rejected.

☐ Claim(s) _____ is/are objected to.

☒ Claims 1-34 are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-19 and 21, drawn to a method and device for aseptically bottling and filling foodstuffs at a high rate, classified in class 53, subclass 425.
 - II. Claims 20 and 22, drawn to a method and device for aseptically bottling and disinfecting at a high rate, classified in class 53, subclass 425.
 - III. Claims 23-34, drawn to an aseptic processing apparatus, classified in class 53, subclass 167.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as for bottling with foodstuffs wherein the bottles are disinfected at a high rate, whereas invention I claims filling at a high rate but not disinfecting at such a rate. See MPEP § 806.05(d).
3. Inventions III and I/II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant

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case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require either filling at a rate greater than 100 bottles per minute (Group I) or disinfecting at such a high rate (Group II). The subcombinations have separate utility such as for rapidly filling or disinfecting bottles, where the process requires a high output at a given stage.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

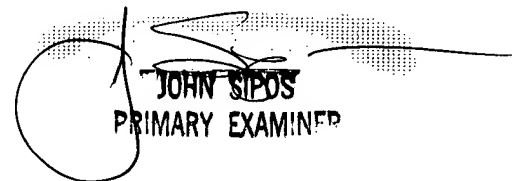
5. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Jensen whose telephone number is (703) 305-0304.

sj

June 23, 2000


JOHN SIPOS
PRIMARY EXAMINER